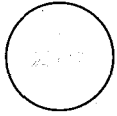


ORIGINAL



ZIMMERMAN REED
ATTORNEYS AT LAW



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BARRY G. REED
ADMITTED IN MINNESOTA AND ARIZONA
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REPLY TO ARIZONA

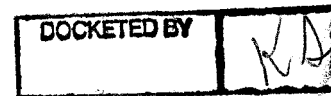
Via U.S. Mail

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007-2996

Arizona Corporation Commission
DOCKETED

APR 20 2005

RE: *Read v. Arizona Public Service Company*
Docket No. E-01345A-04-0657
Consolidated with Docket No. E-01345A-03-0775



Dear Sir or Madam:

Enclosed for filing please find an original and fifteen (15) copies of Complainant's Submission Regarding Attorneys' Time & Expenses.

Please return a file-stamped copy of the above-referenced pleading in the enclosed self-addressed, stamped envelope. Thank you, in advance, for your assistance in this matter.

Very truly yours,

ZIMMERMAN REED, P.L.L.P.

Barry G. Reed

BGR:sab
Enclosures

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

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Arizona Corporation Commission

DOCKETED

APR 20 2005

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AVIS READ; individually, and on Behalf of All
Others Similarly Situated,

Complainants,

v.

ARIZONA PUBLIC SERVICE COMPANY,

Respondent.

DOCKET NO. E-01345A-04-0657

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR A
DECLARATORY ORDER REGARDING BILL
ESTIMATION PROCEDURES.

DOCKET NO. E-01345A-03-0775

COMPLAINANT'S SUBMISSION
REGARDING ATTORNEYS' TIME AND EXPENSES

Pursuant to Commissioner William A. Mundell's request at the hearing on the Settlement Agreement held on April 7, 2005, Complainant submits this brief regarding the time and expenses that Complainant's counsel ("Read Counsel") have incurred in connection with the Maricopa County Superior Court proceeding and the above-referenced Arizona Corporation Commission proceedings.

I. INTRODUCTION

As the Commission is aware, this matter was first filed in the Maricopa County Superior Court on June 4, 2002 as a class action lawsuit ("Litigation") filed on behalf of APS customers seeking relief from illegal APS billing and metering practices. While supported by several legal theories, the basis of the Litigation was that APS had been knowingly and systematically billing APS customers for electricity that its customers have not used and that

1 such bills were rendered and collected based on procedures and methodologies that were
2 unlawful, unapproved and violated APS's obligations, as a regulated public service company,
3 to the citizens of Arizona.

4 This Commission was officially introduced to the Litigation when APS filed an
5 Application for a Declaratory Order Regarding Bill Estimation Procedures on October 22,
6 2003. After Maricopa County Superior Court Judge Rebecca Albrecht issued her Order
7 granting APS's Motion to Dismiss on August 19, 2004, essentially referring the matter to the
8 Commission, Complainant brought her Complaint against APS before the Commission, re-
9 stating her challenge to APS' unlawful estimating procedures.

10 As documented in Commission reports, filings and hearing testimony, the work of Read
11 Counsel has contributed significantly to the Commission's investigation into APS's billing
12 practices by, among other things, providing valuable analysis and information to the
13 Commission. The Read Counsel believe that their action against APS was instrumental in
14 bringing these matters before the Commission, leading to the Proposed Settlement.

15 As the following will demonstrate, Read Counsel has expended a great deal of actual
16 time and out-of-pocket expenses in connection with the above-captioned matters and the prior
17 Litigation that made the resolution of these matters possible.

18 **II. READ COUNSEL'S ACTUAL TIME AND EXPENSES**

19 To date, the total billable time and out-of-pocket expenses that Read Counsel have
20 devoted to this matter, whether in the Maricopa County Superior Court or the ACC, exceeds
21 \$590,000.00 in attorneys' fees (approx. 2,413 hours) and \$23,000.00 in expenses. See,
22 Exhibit A – Summary of Read Counsel Attorneys' Fees. The following chart shows the
23 billable time and expenses of each firm that has worked on these matters:

24 . . .

25 . . .

26 . . .

27 . . .

28 . . .

Firm	Billable Time	Expenses¹
Zimmerman Reed, P.L.L.P.	\$256,777.50	\$19,307.05
The Rubin Law Firm PLC	\$55,998.00	\$466.45
The Law Offices of Jeffrey M. Proper	\$24,262.50	\$0.00
Jerald Bien-Willner, Esq.	\$222,132.50	\$0.00
Laura Bien-Willner, Esq.	\$30,900.00	\$3,600.00
Total	\$590,070.50	\$23,373.50

This time was devoted to a number of matters which culminated with the Settlement Agreement that is now before this Commission, including extensive motion practice and briefing.

Read Counsel also conducted extensive discovery prior to the Complaint filed before the Commission. They served requests for production of documents and requests for admissions upon APS. They also received and reviewed more than 10,000 pages of documents produced by APS and reviewed thousands of additional pages of APS documents that were not selected for copying. Read Counsel also deposed six APS employees – Janet Smith, Cynthia Janka, Janna Van Ness, Doug Winckler, Alan Propper and Jan Bennett.

Further, Read Counsel retained and worked with an expert (Dr. Mark S. Shirilau, P.E., President and Chief Executive Officer of Aloha Systems, Inc., an energy industry consulting and evaluation firm) to assist them in assessing the accuracy of APS's estimating procedures and what effect the load factor would have on the estimating formulae used by APS.

Throughout the Litigation and the ACC proceedings, Read Counsel were diligent in performing only those tasks that were deemed necessary and prudent to perform and sought to avoid performing any duplicative and unnecessary tasks. Although much of the work was performed by the law firm of Zimmerman Reed, Read Counsel attempted to make work assignments in a coordinated fashion. More senior attorneys were not called to perform tasks

¹ These expenses were for items such as filing fees, expert fees, photocopying charges, scanning charges, LexisNexis and Westlaw research, postage, courier fees, long distance phone charges, and travel expenses.

1 when more junior lawyers could perform them. Likewise, when tasks could be performed by
2 paralegals and legal assistants, care was taken to utilize them instead of attorneys.

3 **III. CONCLUSION**

4 As the forgoing has demonstrated, Read Counsel has expended a great deal of actual
5 time and out-of-pocket expenses in connection with the above-captioned matters and the prior
6 Litigation, all of which have led to the successful resolution of this dispute and the multi-
7 million dollar benefit to APS customers.

8
9 DATED: April 18, 2005

Respectfully submitted,


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21 **Attorneys for Complainant**
22 **AVIS READ and the Class**
23
24
25
26
27
28

1 The ORIGINAL and FIFTEEN (15) copies
2 of the foregoing were filed by U.S. Mail
3 this 18th day of April 2005, with:

4 Docket Control
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington
7 Phoenix, AZ 85007-2996

8 Copies of the foregoing were served by mailed
9 this 18th day of April 2005, to:

10 William J. Maledon
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16 PINNACLE WEST CAPITAL CORP.
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19 Phoenix, AZ 85004-3999
20 *Attorney for Respondent Arizona Public Service Company*

21 Janet F. Wagner
22 Attorney, Legal Division
23 ARIZONA CORPORATION COMMISSION
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Phoenix, AZ 85012-2111
Attorneys for Complainant Avis Read and the Class

Stacy A. Betha
Stacy A. Betha

Exhibit A – Summary of Read Counsel Attorneys' Fees

Zimmerman Reed, PLLP

Timekeeper	Rate	Hours Worked	Total Fees
Barry G. Reed	\$450.00	476.75	\$214,537.50
Gregory P. Sautter	\$250.00	0.75	\$187.50
Julie L. Tinkam	\$125.00	3.50	\$437.50
Charlotte L. Haught	\$125.00	8.10	\$1,012.50
Stacy A. Bethea	\$125.00	313.40	\$39,175.00
David M. Ciakowski	\$250.00	0.50	\$125.00
Anne T. Regan	\$200.00	1.50	\$300.00
Allyson J. Teply	\$110.00	9.00	\$990.00
Daniel C. Ray	\$125.00	0.10	\$12.50
Totals		770.15	\$256,777.50

The Rubin Law Firm

Timekeeper	Rate	Hours Worked	Total Fees
David A. Rubin	\$200.00/\$210.00 ¹	248.4	\$50,177.00
John O'Neal	\$170.00	1.3	\$221.00
Sharon S. McNeely	\$70.00	48.00	\$3,360.00
Lori M. Gallagher	\$70.00	32.00	\$2,240.00
Totals		329.70	\$55,998.00

The Law Offices of Jeffrey M. Proper

Timekeeper	Rate	Hours Worked	Total Fees
Jeff M. Proper	\$225.00/\$250.00 ²	100.70	\$24,262.50
Totals		100.70	\$24,262.50

Other Attorneys

Timekeeper	Rate	Hours Worked	Total Fees
Jerald Bien-Willner	\$200/\$215/\$225 ³	1,058.00	\$222,132.50
Laura Bien-Willner	\$200.00	154.50	\$30,900.00
Totals		1,212.50	\$253,032.50

Recap of Read Counsel Hours & Fees

Firm	Hours Worked	Total Fees
Zimmerman Reed P.L.L.P.	770.15	\$256,777.50
The Rubin Law Firm	329.70	\$55,998.00
The Law Offices of Jeffrey M. Proper	100.70	\$24,262.50
Other Attorneys	1,212.50	\$253,032.50
Totals	2413.05	\$590,070.50

¹ The Rubin Law Firm instituted a rate increase effective November 1, 2004.

² The Law Offices of Jeffrey M. Proper instituted a rate increase effective January 1, 2003.

³ Mr. Bien-Willner's rate reflects his annual rate increases.